

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OLIVIA Y., et al.

Plaintiffs,

v.

CIVIL ACTION NO.
3:04-CV-251-DCB-FKB

TATE REEVES, as Governor of the State of
Mississippi, et al.

Defendants.

**PLAINTIFFS' MOTION FOR LEAVE TO AMEND
PENDING AMENDED MOTION FOR RELIEF PURSUANT TO REMEDY PHASE OF
PLAINTIFFS' AMENDED MOTION FOR CONTEMPT, FOR AN
EVIDENTIARY HEARING AND FOR THE APPOINTMENT OF A RECEIVER**

Plaintiffs respectfully move this Court for the entry of an Order granting Plaintiffs leave to amend their pending Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs' Renewed Motion for Contempt [Dkt. 849] ("Amended Renewed Motion"). In support of their motion, Plaintiffs state the following:

1. On June 11, 2019, Public Catalyst issued the Progress of the Mississippi Department of Child Protection Services: Monitoring Report for *Olivia Y., et al. v. Bryant, et al.* covering January to December 2018 [Dkt. 845] (the "Monitor's 2018 Report") in accordance with § 9.5 of the 2nd MSA.
2. Plaintiffs brought their Amended Renewed Motion on July 3, 2019, pursuant to Federal Rule of Civil Procedure 70(e), the Stipulated Third Remedial Order [Dkt. 713] ("STRO"), and the 2nd Modified Mississippi Settlement Agreement and Reform Plan [Dkt. 712] ("2nd MSA").

3. On December 23, 2019, Public Catalyst issued the Progress of the Mississippi Department of Child Protection Services: Interim Monitoring Report for *Olivia Y., et al. v. Bryant, et al.* covering January to June 2019 [Dkt. 875](the “Interim Report”).
4. On December 27, 2019, Plaintiffs filed their Motion for Leave to Supplement Pending Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs’ Amended Motion for Contempt, for an Evidentiary Hearing and for the Appointment of a Receiver [Dkt. 876], which is currently pending before the Court.
5. On June 26, 2020, Public Catalyst issued the Progress of the Mississippi Department of Child Protection Services: Monitoring Report for *Olivia Y., et al. v. Bryant, et al.* covering January to December 2019 [Dkt. 897](the “Monitor’s 2019 Report”) in accordance with § 9.5 of the 2nd MSA. Attached hereto as **Exhibit 1**.
6. The Monitor’s 2019 Report produced by Public Catalyst contains previously unavailable information concerning Defendants’ large-scale failure to comply with the 2nd MSA during the entirety of 2019, as well as the Monitor’s determination that in many instances, Defendants’ data was inaccurate or incomplete and could not be validated by the Monitor. Plaintiffs had no way to obtain the information prior to the issuance of the Monitor’s 2019 Report. In light of these new facts, Plaintiffs seek to amend their pending Amended Renewed Motion [Dkt. 849].
7. The Monitor’s 2019 Report establishes Defendants’ widespread and blatant noncompliance with the terms of the settlement agreement and emphasizes the urgent need for this Court’s intervention in order to enforce the terms of the settlement agreement securing Plaintiff’s constitutional rights.

8. The 2019 Monitor's Report, considered in light of the urgent need for intervention, obviates the need for an evidentiary hearing on the issue of Defendants' noncompliance. Moreover, Plaintiffs willingly relinquish that request now based on the strength of the evidence presented in the Monitor's 2019 Report.
9. Plaintiffs believe that it is important for the court to reach the merits of Plaintiffs' pending motion for contempt at the earliest possible time.
10. Accordingly, Plaintiffs propose that the oral argument previously scheduled for August 4, 2020 on the necessity for an evidentiary hearing be withdrawn. Plaintiffs propose using that day instead to proceed with oral argument on Plaintiffs' pending motion for contempt and the appointment of a receiver [Dkt.739, 840] and Defendants' pending motion for relief under Rule 60(b) [Dkt. 756].
11. Plaintiffs have attached their Proposed Second Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs' Renewed Motion for Contempt and for the Appointment of a Receiver hereto as **Exhibit 2**.
12. Plaintiffs have attached their Proposed Second Amended Memorandum of Law in Support of Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs' Renewed Motion for Contempt and for the Appointment of a Receiver hereto as **Exhibit 3**.
13. For the reasons stated in this motion, as well as the reasons provided in the accompanying affirmation of Marcia Robinson Lowry, Plaintiffs request that the Court grant their motion and enter an Order granting leave to amend their pending Amended Renewed Motion.

14. Plaintiffs also request that this Court grant such other and further relief as this Court deems necessary and proper.

RESPECTFULLY SUBMITTED, this the 2nd day of July 2020.

/s/ Marcia Robinson Lowry
Marcia Robinson Lowry (pro hac vice)
Anastasia Benedetto (pro hac vice)
A Better Childhood, Inc.
355 Lexington Avenue, Floor 16
New York, New York 10017
Telephone (646) 808-7344
Email: mlowry@abetterchildhood.org
abenedetto@abetterchildhood.org

Wayne Drinkwater, Jr. (MBN 6193)
Michael J. Bentley (MBN 102631)
BRADLEY ARANT BOULT CUMMINGS LLP
One Jackson Place, Suite 400
188 East Capitol Street
Jackson, Mississippi 39201
Telephone: (601) 948-8000
Facsimile: (601) 948-3000
Email: wdrinkwater@bradley.com
mbentley@bradley.com

CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will deliver copies to all counsel of record.

/s/ Marcia Robinson Lowry
Marcia Robinson Lowry (pro hac vice)